

LEWIS BRISBOIS BISGAARD & SMITH LLP

DANA ALDEN FOX, SB# 119761

E-Mail: Dana.Fox@lewisbrisbois.com

TONY M. SAIN, SB# 251626

E-Mail: Tony.Sain@lewisbrisbois.com

TORI L. N. BAKKEN, SB# 329069

E-Mail: Tori.Bakken@lewisbrisbois.com

ABIGAIL J. R. McLAUGHLIN, SB# 313208

E-Mail: Abigail.McLaughlin@lewisbrisbois.com

633 West 5th Street, Suite 4000

Los Angeles, California 90071

Telephone: 213.250.1800

Facsimile: 213.250.7900

Attorneys for Defendants,
CITY OF ANAHEIM, JORGE
CISNEROS, PAUL DELGADO, BRETT
HEITMAN, KENNETH WEBER, and
CATALIN PANOV

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ANTONIO LOPEZ, individually;
JOHANNA LOPEZ, individually;
M.R., by and through his guardian ad
litem, April Rodriguez, individually and
as successor in interest to Brandon
Lopez; B.L. and J.L., by and through
their guardian ad litem Rachel Perez,
individually and as successor in interest
to Brandon Lopez; S.L., by and through
his guardian ad litem, Rocio Flores,
individually and as successor in interest
to Brandon Lopez,

Plaintiffs,

vs.

CITY OF ANAHEIM; CITY OF
SANTA ANA; DAVID VALENTIN;
JORGE CISNEROS; PAUL
DELGADO; BRETT HEITMAN;
KENNETH WEBER; CAITLIN
PANOV; DOES 1-10,

Defendants.

Case No. 8:22-cv-1351-JVS-ADS
[Hon. James V. Selna, Dist. Judge; Hon.
Autumn D. Spaeth, M. Judge]

**DEFENDANTS' RESPONSE TO
PLAINTIFFS' STATEMENT OF
GENUINE DISPUTES OF
MATERIAL FACT [DKT. 130-2]
AND PLAINTIFFS' STATEMENT
OF ADDITIONAL MATERIAL
FACTS [DKT. 130-1] IN SUPPORT
OF DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT OR
PARTIAL SUMMARY JUDGMENT**

*Filed Concurrently with Reply in
Support of Motion for Summary
Judgment; Response to Plaintiffs'
Evidentiary Objections; Defendants'
Evidentiary Objections*

Date: August 12, 2024
Time: 1:30 p.m.
Crtrm.: 10C

FPTC Date: September 9, 2024
Trial Date: September 17, 2024

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

In accordance with C.D. Cal. L.R. 56-3, Defendants CITY OF ANAHEIM, JORGE CISNEROS, PAUL DELGADO, BRETT HEITMAN, KENNETH WEBER, and CATALIN PANOV (“Defendants” or “Anaheim Defendants”) submit their responses to Plaintiffs’ Separate Statement of Genuine Disputes of Material Fact in Support of their Opposition to Defendants’ Motion for Summary Judgment or Partial Summary Judgment [Dkt. 130-2] and Plaintiffs’ Statement of Additional Material Facts in Support of their Opposition to Defendants’ Motion for Summary Judgment or Partial Summary Judgment [Dkt. 130-1] and state as follows:

STATEMENT OF UNDISPUTED FACTS

Defs.’ SUF No.	Fact & Supporting Evidence	Opposing Party’s Response to Cited Fact and Supporting Evidence
A. Mr. Lopez Is Suspected of Vehicular Theft and Flees Traffic Stop, Leading APD Officers On Vehicular Pursuit.		
1.	On September 28, 2021, at about 3:00 p.m., the APD received a stolen vehicle report regarding a black Dodge Charger. Exh. 1, Composite Video at 00:00-00:05; Exh. 2, Audio Interview of Anaheim Police Investigator Ricky Reynoso (“Reynoso Interview”); Exh. 11, Dispatch Audio of Pursuit; Exh. 19, Transcript of Interview of Anaheim Police Investigator Ricky Reynoso (“Reynoso Interview Transcript”) at pp. 4-5.	Undisputed.
2.	Brandon Lopez was identified as the suspect regarding the theft of the black Dodge Charger. Exh. 2, Reynoso Interview; Exh. 3,	Undisputed.

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3 4 5 6 7 8 9		Audio Interview of Santa Ana Police Department Officer Kenny Aguilar ("Aguilar Interview"); Exh. 11, Dispatch Audio of Pursuit; Exh. 19, Reynoso Interview Transcript at p. 5; Exh. 20, Transcript of Interview of Santa Ana Police Department Officer Kenny Aguilar ("Aguilar Interview Transcript") at p. 6.	
10 11 12 13 14 15 16 17 18 19 20	3.	Mr. Lopez had an active warrant for armed robbery. Exh. 2, Reynoso Interview; Exh. 3, Aguilar Interview; Exh. 11, Dispatch Audio of Pursuit; Exh. 15, Audio Interview of Defendant Sergeant Paul Delgado ("Delgado Interview"); Exh. 19, Reynoso Interview Transcript at pp. 5-6, 12; Exh. 20, Aguilar Interview Transcript at p. 6; Exh. 21, Transcript of Audio Interview of Defendant Sergeant Paul Delgado ("Delgado Interview Transcript") at 15:12-16:17.	Undisputed.
21 22 23 24 25 26 27 28	4.	APD officers located the stolen Dodge Charger in Santa Ana, California and, at about 5:15 p.m., tried to conduct a traffic stop. Exh. 1, Composite Video at 00:05-00:19; Exh. 2, Reynoso Interview; Exh. 11, Dispatch Audio of Pursuit; Exh. 19, Reynoso Interview Transcript at p. 6.	Undisputed.

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3 4 5 6 7 8 9 10 11 12	5.	The driver of the stolen vehicle, later confirmed to be Mr. Lopez, fled the stop: leading officers on a vehicle pursuit for approximately 30 minutes through Tustin, Irvine, and Santa Ana. Exh. 1, Composite Video at 00:19-00:49; Exh. 2, Reynoso Interview; Exh. 11, Dispatch Audio of Pursuit; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at pp. 6-7; Exh. 21, Delgado Interview Transcript at 15:12-16:17.	Undisputed.
13 14 15 16 17 18	6.	During the vehicle pursuit, Mr. Lopez ran red lights and stop signs, and he drove into oncoming traffic. Exh. 1, Composite Video at 00:19-00:49; Exh. 11, Dispatch Audio of Pursuit; Exh. 15, Delgado Interview; Exh. 21, Delgado Interview Transcript at 15:12-16:17.	Undisputed.
19 20 21 22 23 24 25	7.	Mr. Lopez was also involved in a traffic collision, but he drove away from the scene of the collision. Exh. 4, Cell Phone Video of Collision; Exh. 11, Dispatch Audio of Pursuit; Exh. 15, Delgado Interview; Exh. 21, Delgado Interview Transcript at 15:12-16:17.	Undisputed.
26 27 28	8.	This information was radioed to the APD officers, along with his criminal history/warrants. Exh. 2, Reynoso Interview; Exh. 5,	Undisputed.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28
Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence																									
	Audio Interview of Defendant Sergeant Kenneth Weber ("Weber Interview"); Exh. 11, Dispatch Audio of Pursuit; Exh. 14, Audio Interview of Defendant Officer Catalin Panov ("Panov Interview"); Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 12; Exh. 21, Delgado Interview Transcript at 15:12-16:17; Exh. 22, Transcript of Audio Interview of Defendant Sergeant Kenneth Weber ("Weber Interview Transcript") at 17:23-18:7; Exh. 23, Transcript of Audio Interview of Defendant Officer Catalin Panov ("Panov Interview Transcript") at 19:22-20:12.																										
9.	At about 5:49 p.m., Mr. Lopez's vehicle became disabled/immobilized on partially constructed train tracks, after driving into a construction zone. Exh. 1, Composite Video at 00:49-01:25; Exh. 2, Reynoso Interview; Exh. 6, Audio Interview of Santa Ana Police Department Officer Sergio Martinez ("Martinez Interview"); Exh. 11, Dispatch Audio of Pursuit; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 7; Exh. 21, Delgado Interview Transcript at 15:12-16:17; Exh. 24, Transcript of Interview of Santa Ana Police Department Officer Sergio Martinez ("Martinez Interview Transcript") at	Undisputed.																									

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3		pp. 4, 12.	
4	B. Mr. Lopez's Stand Off With Law Enforcement.		
5 6 7 8 9 10 11 12	10.	APD Officers arrived to execute a high risk vehicle stop on Mr. Lopez and the stolen vehicle. Exh. 1, Composite Video at 01:25-01:52; Exh. 2, Reynoso Interview; Exh. 6, Martinez Interview; Exh. 12, Dispatch Audio of Stand Off; Exh. 19, Reynoso Interview Transcript at p. 7; Exh. 24, Martinez Interview Transcript at p. 4.	Disputed in part as to "high risk" Undisputed that the APD Officers executed a vehicle stop during the incident.
13 14 15 16		Moving Party's Response Plaintiffs fail to materially dispute this fact, as they provide no evidence in support of their <i>partial</i> dispute of this fact that the vehicle stop executed on Mr. Lopez was "high risk." Thus, this fact remains undisputed.	
17 18 19 20 21 22 23 24 25 26 27 28	11.	However, Mr. Lopez would not comply with commands to exit the vehicle or to surrender. Exh. 1, Composite Video at 01:25-01:52; Exh. 2, Reynoso Interview; Exh. 6, Martinez Interview; Exh. 7, Audio Interview of Santa Ana Police Department Corporal Luis Galeana ("Galeana Interview"); Exh. 12, Dispatch Audio of Stand Off; Exh. 13, Heitman Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 7; Exh. 21, Delgado Interview Transcript at 15:12-16:17; Exh. 24, Martinez Interview Transcript at pp. 4-5; Exh. 25, Transcript of	Undisputed.

1	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
2			
3		Interview of Santa Ana Police	
4		Department Corporal Luis Galeana	
5		("Galeana Interview Transcript") at	
6		p. 11; Exh. 26, Heitman Interview	
		Transcript at 30:20-31:5.	
7	12.	APD officers continued to try to	Undisputed.
8		negotiate with Mr. Lopez to	
9		surrender peacefully for	
10		approximately 3 hours: trying to	
11		convince Mr. Lopez to exit his	
12		vehicle and giving commands in	
		both English and Spanish; but Mr.	
		Lopez remained in the vehicle.	
13		Exh. 1, Composite Video at 01:25-	
14		02:13; Exh. 2, Reynoso Interview;	
15		Exh. 3, Aguilar Interview; Exh. 5,	
16		Sgt. Weber Audio Interview; Exh.	
17		6, Martinez Interview; Exh. 7,	
18		Galeana Interview; Exh. 9, Mullins	
19		Interview; Exh. 12, Dispatch Audio	
20		of Stand Off; Exh. 14, Panov	
21		Interview; Exh. 15, Delgado	
22		Interview; Exh. 19, Reynoso	
23		Interview Transcript at pp. 13-14;	
24		Exh. 20, Aguilar Interview	
25		Transcript at pp. 10-12, 15-16, 17-	
26		18; Exh. 21, Delgado Interview	
27		Transcript at 25:10-26:19; Exh. 22,	
28		Weber Interview Transcript at 25:5-	
		19, 35:19-36:18, 38:4-12, 38:18-	
		39:5; Exh. 23, Panov Interview	
		Transcript at 27:21-28:5; Exh. 24,	
		Martinez Interview Transcript at pp.	
		5-7; Exh. 25, Galeana Interview	
		Transcript at p. 22; Exh. 27, Mullins	
		Interview Transcript at pp. 8-9.	

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3 4 5 6 7 8 9 10 11	13.	Mr. Lopez also responded to commands by shaking his head, indicating that he would not exit the stranded vehicle. Exh. 3, Aguilar Interview; Exh. 6, Martinez Interview; Exh. 15, Delgado Interview; Exh. 20, Aguilar Interview Transcript at pp. 10-12, 17-18; Exh. 21, Delgado Interview Transcript at 26:20-27:5; Exh. 24, Martinez Interview Transcript at pp. 5-7, 25-26.	Undisputed.
12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	14.	At a certain point, law enforcement officers saw Mr. Lopez inside of the Dodge Charger with what they believed to be a gun in his right hand and reported the same over the radio. Exh. 2, Reynoso Interview; Exh. 3, Aguilar Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 8, Audio Interview of Santa Ana Police Officer Nelson Menendez ("Menendez Interview"); Exh. 9, Audio Interview of Anaheim Police Officer Brandon Mullins ("Mullins Interview"); Exh. 13, Audio Interview of Defendant Officer Brett Heitman ("Heitman Interview"); Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at pp. 7-8, 12-13; Exh. 20, Aguilar Interview Transcript at pp. 19-25; Exh. 21, Delgado Interview Transcript at 44:16-45:9; Exh. 22, Weber	Disputed is [sic] part as to whether officers saw a gun. It is undisputed that Mr. Lopez was not armed during the Incident and no firearms were recovered from his vehicle. Defendant cites to no body worn camera footage depicting Mr. Lopez inside of the Dodge Charger with what could appear to be a gun nor do they city [sic] to any evidence showing more than one officer saw a gun. Only Officer Aguilar reported seeing the alleged firearm and he only saw the object from a distance for a brief moment. This was reported to Officer Menendez who aired the information over the radio. Exhibit A – Anaheim Police Department Computer Aided Dispatch Report (hereinafter "Ex A – CAD Report").

1	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
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3		Interview Transcript at 18:20-19:21, 39:6-40:24; Exh. 24, Martinez Interview Transcript at p. 15; Exh. 26, Heitman Interview Transcript at 17:8-19:1; Exh. 27, Mullins Interview Transcript at pp. 3-4; Exh. 28, Transcript of Interview of Santa Ana Police Officer Nelson Menendez ("Officer Menendez Interview Transcript") at pp. 8-11.	Defendants' Exh. 3, 20 at 19-25.
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10		Moving Party's Response	
11		Plaintiffs do not materially dispute this fact as stated. Plaintiffs claim that their dispute is as to whether officers saw a gun, but this fact specifically states that law enforcement officers saw Mr. Lopez with <i>what they</i> <i>believed to be a gun</i> , not that officers actually saw a gun. Additionally, Plaintiffs do not dispute the crux of this fact: it was reported over the radio that Mr. Lopez was seen with a firearm. Dkt. 140-5, Pltfs.' Exh. A at COA 000090 ("417 Right Hand", referring to Cal. Pen. Code § 417, which makes it a crime to brandish a firearm or a deadly weapon.)	
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17	15.	The officers also observed Mr. Lopez smoking something from a foil and through a pipe, suggesting that Mr. Lopez was taking illegal drugs.	Undisputed.
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21		Exh. 1, Composite Video at 02:21- 02:26; Exh. 2, Reynoso Interview; Exh. 3, Aguilar Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 10, Audio Interview of Anaheim Police Officer James Lopez ("Officer Lopez Interview"); Exh. 13, Heitman Interview; Exh. 19, Reynoso Interview Transcript at p. 9; Exh. 20, Aguilar Interview Transcript at pp. 13-14, 20; Exh. 22,	
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Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
	Weber Interview Transcript at 39:6-40:24; Exh. 24, Martinez Interview Transcript at pp. 5-7, 15-16; Exh. 26, Heitman Interview Transcript at 31:19-32:9; Exh. 29, Transcript of Interview of Anaheim Police Officer James Lopez ("Officer Lopez Interview Transcript") at p. 5.	
16.	<p>Officers also reported seeing Mr. Lopez making furtive movements, such as reaching under the front passenger seat with both hands and talking on a cell phone.</p> <p>Exh. 2, Reynoso Interview; Exh. 3, Aguilar Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 10, Officer Lopez Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 9; Exh. 20, Aguilar Interview Transcript at pp. 20-21; Exh. 21, Delgado Interview Transcript at 24:5-25:9; Exh. 22, Weber Interview Transcript at 39:6-40:24; Exh. 24, Martinez Interview Transcript at pp. 5-7.</p>	<p>Disputed in part as to "furtive movements."</p> <p>Talking on a cell phone is not a furtive movement. Mr. Lopez was reported to be moving around, smoking, looking out the windows, crying, and putting mats on the windows. He was never reported making any aggressive or threatening movements.</p> <p>Ex. A – CAD Report, generally.</p>
Moving Party's Response		
Plaintiffs do not materially dispute this fact. Plaintiffs' own cited evidence confirms that Mr. Lopez was using both hands to reach underneath the seats of the vehicle, that law enforcement officers could not always see Mr. Lopez's hands (despite their commands to Mr. Lopez to show his hands), and that it appeared Mr. Lopez was reaching for an unknown object. Dkt. 130-5, Pltfs.' Exh. A at COA 000089-90, 93-94,		

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3		98-99.	
4 5 6 7 8 9 10 11 12 13 14 15	17.	<p>Officers also observed Mr. Lopez take a pen from the center console and write something, which was discovered to be a suicide note after the incident.</p> <p>Exh. 5, Weber Interview; Exh. 22, Weber Interview Transcript at 39:6-40:24.</p>	<p>Disputed in part as to "suicide note." The evidence cited by Defendant does not support their alleged "fact."</p> <p>Weber in his interview states only that it was reported to him that Mr. Lopez had been writing something down on a piece of paper, like a note. The Defendants had no knowledge of the substance of the note at the time they used deadly force as Mr. Lopez maintained possession of it inside the car.</p> <p>Defendants' Exh. 5, 22 at 39:6-40:24.</p>
16 17 18 19 20 21 22 23 24		<p>Moving Party's Response</p> <p>Plaintiffs do not materially dispute this fact as stated. Plaintiffs <i>partial</i> purported dispute is in regards to the fact that Defendants did not have knowledge of Plaintiffs' suicide note when they used deadly force during the incident, but this fact explicitly stated that the suicide note was not discovered until after the incident. Moreover, Plaintiffs' own evidence supports that Mr. Lopez was suicidal, as he told family members he intended to commit suicide by cop and such was reported to the Anaheim Officer Defendants during the incident. Dkt. 130-5, Pltfs.' Exh. A at COA 000103 ("220 TO CCP FAMILY MEMEBER [sic] ADV'ING AS OF 1900 HRS WHEN THEY SPOKE TO HIM VIA 10-21 AND STATED HE WANTS 914A BY COP").</p>	
25 26 27 28	18.	<p>Mr. Lopez then placed his vehicle's floor mats over the car's windows: to obscure officers' views.</p> <p>Exh. 1, Composite Video at 2:14-2:20; Exh. 5, Weber Interview; Exh.</p>	Undisputed.

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3 4 5 6 7 8 9 10		6, Martinez Interview; Exh. 10, Officer Lopez Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 21, Delgado Interview Transcript at 20:14-24, 46:1-20; Exh. 22, Weber Interview Transcript at 37:10-16; Exh. 23, Panov Interview Transcript at 62:8-63:12; Exh. 24, Martinez Interview Transcript at p. 29; Exh. 29, Officer Lopez Interview Transcript at p. 5.	
11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27	19.	<p>This information about Mr. Lopez's behavior was relayed to the officers responding to the scene, who viewed Lopez's conduct as indicating a threatening intent.</p> <p>Exh. 1, Composite Video at 2:14-2:20; Exh. 5, Weber Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 21, Delgado Interview Transcript at 20:14-24; Exh. 22, Weber Interview Transcript at 37:10-16; Exh. 23, Panov Interview Transcript at 62:8-63:12.</p>	<p>Disputed in part as to "viewed it as indicating a threatening [sic] intent."</p> <p>Mr. Lopez was never reported to be making any threatening or aggressive gestures. Mr. Lopez was reported to be moving around a lot and crying, indicating that he was in some kind of crisis.</p> <p>Ex A – CAD Report</p>
28		<p>Moving Party's Response</p> <p>Plaintiffs do not materially dispute this fact as stated. In regards to Mr. Lopez's conduct indicating threatening intent, this fact makes that statement in regards to how the officers <i>viewed</i> Mr. Lopez's conduct, which is supported by Defendants' cited evidence. Additionally, Plaintiffs' own cited evidence supported the actions by Mr. Lopez that the responding officers viewed to be indicating a threatening intent. Thus, this fact remains undisputed.</p>	

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3 4 5 6 7 8 9	20.	As a result, APD SWAT was called to respond to the scene and took control of the scene at approximately 9:07 p.m. Exh. 6, Martinez Interview; Exh. 7, Galeana Interview; Exh. 24, Martinez Interview Transcript at pp. 14, 21; Exh. 25, Galeana Interview Transcript at pp. 19-20.	Undisputed.
10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	21.	At approximately 9:34 p.m., APD SWAT was informed that Mr. Lopez had advised a family member that he intended to commit "suicide by cop": which raised the officers concerns that he might try to seriously injure someone in order to provoke the officers to shoot him. Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 10, Officer Lopez Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 15; Exh. 21, Delgado Interview Transcript at 21:10-20; Exh. 22, Weber Interview Transcript at 39:6-40:24; Exh. 23, Panov Interview Transcript at 26:3-13, 64:15-21; Exh. 26, Heitman Interview Transcript at 31:19-32:9; Exh. 29, Officer Lopez Interview Transcript at p. 7.	Disputed. The family member never reported that he intended to commit "suicide by cop;" a concerned family member asked <i>if he was trying</i> suicide by cop when asking officers what was going on. Ex L – Body Worn Camera Video of Santa Ana Police Officer Jose Arias.
		Moving Party's Response	
		Plaintiffs do not materially dispute this fact as stated. In fact, Plaintiffs'	

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3 4 5 6 7 8 9 10		own evidence supports that it was reported to APD SWAT that Mr. Lopez intended to commit suicide by cop. Dkt. 130-5, Pltfs.' Exh. A at COA 000103 ("220 TO CCP FAMILY MEMEBER [sic] ADV'ING AS OF 1900 HRS WHEN THEY SPOKE TO HIM VIA 10-21 AND STATED HE WANTS 914A BY COP"). Plaintiffs' cited body worn camera video does not dispute this fact. Rather, one family member could have asked if Mr. Lopez intended to commit suicide by cop, while another affirmatively stated the same to law enforcement. In any event, such body worn camera video does not change what was reported to APD SWAT and how that could have affected the officers' assessment of the situation and how to respond.	
11 12 13 14 15 16 17 18 19 20	22.	Shortly thereafter, notwithstanding the obstruction of the mats in the car windows, Mr. Lopez was seen shifting to the back seat of the vehicle. Exh. 2, Reynoso Interview; Exh. 5, Sgt. Weber Audio Interview; Exh. 10, Officer Lopez Interview; Exh. 19, Reynoso Interview Transcript at p. 9; Exh. 22, Weber Interview Transcript at 37:3-38:3; Exh. 29, Officer Lopez Interview Transcript at p. 5.	Undisputed.
21 22 23 24 25 26 27 28	23.	The officers at the scene, including the defendant officers, viewed the totality of Lopez's aforementioned conduct up to that point as threatening and potentially pre-assaultive. Exh. 2, Reynoso Interview; Exh. 3, Aguilar Interview; Exh. 19, Reynoso Interview Transcript at pp. 7-10, 12-13; Exh. 20, Aguilar	Disputed. Mr. Lopez was never reported to be making any threatening or aggressive gestures. Mr. Lopez was reported to be moving around a lot and crying, indicating that he was in some kind of crisis. Ex A – CAD Report, generally.

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3		Interview Transcript at pp. 23-24.	
4		Moving Party's Response	
5		Plaintiffs do not materially dispute this fact as stated. This fact in regards	
6		to how the officers viewed Mr. Lopez's actions preceding the use of lethal	
7		force, which, as supported by Defendants' cited evidence, was that Mr.	
8		Lopez's conduct was threatening and potentially pre-assaultive. Further,	
9		Plaintiffs' cited evidence does not dispute this fact at all and, instead,	
10		supports that Mr. Lopez's actions prior to the use of lethal force could be	
11		considered threatening. <i>See generally</i> Dkt. 130-5, Pltfs.' Exh. A.	
12	C. APD SWAT Officers Attempt to Detain Mr. Lopez, Who Proceeds to Run Towards APD SWAT Officers While Pointing a Black Object At Officers With Mr. Lopez's Right Hand, Believed To Be A Gun.		
13	24.	APD SWAT members then lined up	Undisputed.
14		near the Dodge Charger in the	
15		following order: Defendant Officer	
16		Brett Heitmann, Defendant Sergeant	
17		Paul Delgado, non-defendant APD	
18		Officer Ricky Reynoso (armed with	
19		a less-lethal 40 mm weapon),	
20		Defendant Officer Catalin Panov,	
21		and Defendant Sergeant Kenneth,	
22		and non-defendant APD K-9	
23		Officer Brandon Mullins.	
24		Exh. 2, Reynoso Interview; Exh. 5,	
25		Weber Audio Interview; Exh. 9,	
26		Mullins Interview; Exh. 13,	
27		Heitman Interview; Exh. 14, Panov	
28		Interview; Exh. 15, Delgado	
		Interview; Exh. 19, Reynoso	
		Interview Transcript at p. 8, 14;	
		Exh. 21, Delgado Interview at	
		19:25-20:13; Exh. 22, Weber	
		Interview Transcript at 31:7-33:3,	
		35:5-10, 46:5-15; Exh. 23, Panov	

1	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
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3		Interview Transcript at 26:3-24; ;	
4		Exh. 26, Heitman Interview	
5		Transcript at 37:13-22; Exh. 27,	
6		Mullins Interview Transcript at pp.	
7		3-4, 9-10.	
8	25.	At 10:00 p.m., officers deployed a	Undisputed.
9		flash-bang on the hood of the	
10		Dodge Charger and a chemical	
11		agent akin to pepper spray through	
12		the rear windshield.	
13		Exh. 1, Composite Video at 02:26-	
14		02:38; Exh. 2, Reynoso Interview;	
15		Exh. 5, Weber Interview; Exh. 6,	
16		Martinez Interview; Exh. 13,	
17		Heitman Interview; Exh. 14, Panov	
18		Interview; Exh. 15, Delgado	
19		Interview; Exh. 19, Reynoso	
20		Interview Transcript at p. 8; Exh.	
21		21, Delgado Interview Transcript at	
22		27:22-28:2; Exh. 22, Weber	
23		Interview Transcript at 44:22-46:15;	
24		Exh. 23, Panov Interview at 28:16-	
25		30:7; Exh. 24, Martinez Interview	
26		Transcript at pp. 27-28; Exh. 26,	
27		Heitman Interview at 40:2-43:16.	
28	26.	Mr. Lopez then finally emerged	Undisputed.
		from the rear door driver's side of	
		the vehicle and he began fleeing	
		from the SWAT officers.	
		Exh. 1, Composite Video at 02:36-	
		02:42; Exh. 2, Reynoso Interview;	
		Exh. 5, Weber Interview; Exh. 6,	
		Martinez Interview; Exh. 15,	
		Delgado Interview; Exh. 19,	
		Reynoso Interview Transcript at pp.	

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3 4 5 6		7-8; Exh. 21, Delgado Interview Transcript at 28:3-17; Exh. 22, Weber Interview Transcript at 46:16-25; Exh. 24, Martinez Interview Transcript at pp. 28, 31.	
7 8 9 10 11 12 13 14 15 16	27.	The officers commanded Mr. Lopez to put his hands up. Exh. 1, Composite Video at 02:36-02:43; Exh. 13, Heitman Interview; Exh. 15, Delgado Interview; Exh. 21, Delgado Interview Transcript at 28:13-17, 47:3-14; Exh. 26, Heitman Interview Transcript at 43:6-44:7, 46:23-47:3, 65:17-24.	Disputed in part. Several officers began yelling at once, including officers yelling "hands up" and "go, go, go." Exhibit E – Defendant Panov's Body Worn Camera Footage at 0:00:00-0:02:00 (hereinafter "Ex E – Panov BWC") Exhibit F – Defendant Delgado's Body Worn Camera Footage at 00:00-02:00 (hereinafter "Ex F – Delgado BWC")
17 18 19 20		Moving Party's Response Plaintiffs do not dispute this fact; rather, Plaintiffs support that the officers commanded Mr. Lopez to put his hands up by confirming the officers yelled "hands up" and citing evidence that supports the same.	
21 22 23 24 25 26 27 28	28.	Ignoring the officers' commands, Mr. Lopez stopped running away from the officers, instead turning towards the SWAT officers and quickly pointed at them with a black object in his right hand while beginning to run in the officers' direction. Exh. 1, Composite Video at 02:42-02:43; Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 6,	Disputed as to the reason Defendant Officers fired. Mr. Lopez was moving in a parallel line to the officers through the construction area. When Mr. Lopez encountered piles of dirt on the ground, construction equipment, and a parked car, he was forced to change his direction slightly to move around the obstacles. Mr. Lopez was not running towards the

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Def's. SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
	<p>Martinez Interview; Exh. 10, Officer Lopez Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at pp. 8-11, 14, 16-17; Exh. 21, Delgado Interview Transcript at 28:3-17; Exh. 22, Weber Interview Transcript at 46:16-47:6, 50:2-20, 65:19-67:8; Exh. 23, Panov Interview Transcript at 36:1-18, 36:25-39:23; Exh. 24, Martinez Interview Transcript at pp. 8, 31; Exh. 26, Heitman Interview Transcript at 43:6-44:7, 47:10-48:25, 64:10-65:16, 67:17-25; Exh. 29, Officer Lopez Interview Transcript at pp. 5-6.</p>	<p>SWAT officers. Moreover, there were several objects obstructing Mr. Lopez's view of the officers including a large road sign and several bright lights being pointed at him. The object was a small soft bag that any reasonable SWAT officer should recognize is not a firearm. Mr. Lopez did not raise or point the small bag containing a plastic water bottle at the Defendants; any movement of the object was caused by the natural movement of him jogging and navigating the terrain of the construction site.</p> <p>Ex E – Panov BWC at 1:18:07-18:17.</p> <p>Ex F - Delgado BWC at 54:24-54:33.</p> <p>Ex G – Weber BWC at 1:38:46-1:38:55.</p> <p>Exhibit H – Still Frames from Defendant Panov's Body Worn Camera (hereinafter "Panov BWC Still Frames")</p> <p>Exhibit I – Still Frames from Defendant Delgado's Body Worn Camera (hereinafter "Delgado BWC Still Frames")</p> <p>Exhibit J – Still Frames from Defendant Weber's Body Worn Camera (hereinafter "Weber BWC</p>

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3 4 5			Still Frames") Exhibit M – Photograph of Bag from DOJ Report
6 7 8 9 10 11 12		<p>Moving Party's Response</p> <p>Plaintiffs' stated dispute is only "as to the reason Defendant Officers fired," which is not a dispute, as this fact does not state anything about the reason Defendant Officers used lethal force during the incident. Instead, this fact is in regards to Mr. Lopez's actions after the officers issued commands for him to put his hands up. All other statements in response to this fact is improper and irrelevant, as they do not materially dispute this fact as stated <u>and</u> do not support Plaintiffs' stated dispute. Thus, this fact remains undisputed.</p>	
13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	29.	<p>Seeing this, Defendant Officer Catalin Panov responded by shouting, "Gun, gun, gun."</p> <p>Exh. A, Composite Video at 02:42-02:43; Exh. 5, Weber Interview; Exh. 10, Officer Lopez Interview; Exh. 14, Panov Interview; Exh. 22, Weber Interview Transcript at 56:4-22; Exh. 23, Panov Interview Transcript at 36:25-39:23, 43:17-22; Exh. 29, Officer Lopez Interview Transcript at pp. 5-6.</p>	<p>Disputed in part as to what Defendant Panov observed.</p> <p>The object was a small soft bag that any reasonable SWAT officer should recognize is not a firearm.</p> <p>Ex E – Panov BWC at 1:18:07-18:17.</p> <p>Ex F – Delgado BWC at 54:24-54:33.</p> <p>Ex G – Weber BWC at 1:38:46-1:38:55</p> <p>Exhibit H – Still Frames from Defendant Panov's Body Worn Camera (hereinafter "Panov BWC Still Frames")</p> <p>Exhibit I – Still Frames from Defendant Delgado's Body Worn Camera (hereinafter "Delgado</p>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Def's. SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
			<p>BWC Still Frames”)</p> <p>Exhibit J – Still Frames from Defendant Weber’s Body Worn Camera (hereinafter “Weber BWC Still Frames”)</p> <p>Exhibit M – Photograph of Bag from DOJ Report.</p>
		<p>Moving Party’s Response</p> <p>Plaintiffs do not materially dispute this fact as stated. The crux of this fact is that Defendant Officer Catalin Panov shouted “Gun, gun, gun” during the incident, based on his observation of Mr. Lopez. Plaintiffs cannot dispute that Defendant Officer Panov made such statement, as it is reflected on all video regarding the incident related to the Anaheim Officer Defendants’ use of lethal force and, therefore, this fact remains undisputed.</p>	
	30.	<p>In that split-second moment, the APD SWAT officers present believed that Lopez was about to fire a gun at them.</p> <p>Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at pp. 8-10, 14-15; Exh. 21, Delgado Interview Transcript at 28:16-21; Exh. 22, Weber Interview Transcript at 47:7-48:10, 50:2-20, 56:23-57:8, 68:5-12; Exh. 23, Panov Interview Transcript at 36:1-18, 36:25-39:23; Exh. 25, Heitman Interview Transcript at 47:10-48:25, 49:3-9,</p>	<p>Disputed as to the reason Defendant Officers fired.</p> <p>Mr. Lopez was moving in parallel line to the officers through the construction area. When Mr. Lopez encountered piles of dirt on the ground, construction equipment, and a parked car, he was forced to change his direction slightly to move around the obstacles. Mr. Lopez was not running towards the SWAT officers. Moreover, there were several objects obstructing Mr. Lopez’s view of the officers including a large road sign and several bright lights being pointed at him. The object was a small soft bag that any reasonable SWAT officer should recognize is not a</p>

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Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
	51:6-13.	<p>firearm. Mr. Lopez did not raise or point the small bag containing a plastic water bottle at the Defendants; any movement of the object was caused by the natural movement of him jogging and navigating the terrain of the construction site.</p> <p>Ex E – Panov BWC at 1:18:07-18:17.</p> <p>Ex F – Delgado BWC at 54:24-54:33.</p> <p>Ex G – Weber BWC at 1:38:46-1:38:55</p> <p>Exhibit H – Still Frames from Defendant Panov's Body Worn Camera (hereinafter "Panov BWC Still Frames")</p> <p>Exhibit I – Still Frames from Defendant Delgado's Body Worn Camera (hereinafter "Delgado BWC Still Frames")</p> <p>Exhibit J – Still Frames from Defendant Weber's Body Worn Camera (hereinafter "Weber BWC Still Frames")</p> <p>Exhibit M – Photograph of Bag from DOJ Report.</p>
	<p>Moving Party's Response</p> <p>Plaintiffs do not materially dispute this fact as stated. None of Plaintiffs' cited evidence disputes that all the Anaheim Officer Defendants stated</p>	

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3 4 5 6 7		that they believed that Mr. Lopez was about to fire a gun at them prior to their use of lethal force. Therefore, this fact remains undisputed. Additionally, Plaintiffs' additional commentary as to Mr. Lopez's movements during the incident is not relevant to this fact about the Anaheim Officer Defendants' beliefs during the incident that caused them to use lethal force.	
8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	31.	<p>Accordingly, Defendant Officer Heitman fired 4 to 5 shots from his rifle; Defendant Officer Panov also concurrently fired 10 shots from his handgun; Defendant Sergeant Weber also concurrently fired 5 shots from his handgun; and Defendant Sergeant Delgado concurrently fired four shots from his rifle.</p> <p>Exh. 1, Composite Video at 02:42-02:46; Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 13, Heitman Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 11; Exh. 21, Delgado Interview at 29:22-30:5; Exh. 22, Sgt. Weber Interview Transcript at 49:11-22, 52:18-53:3; Exh. 24, Martinez Interview Transcript at p. 32; Exh. 26, Heitman Interview Transcript at 14:19-21. 51:12-13, 53:1-54:1.</p>	<p>Disputed as to the reason Defendant Officers fired.</p> <p>Mr. Lopez was moving in a parallel line to the officers through the construction area. When Mr. Lopez encountered piles of dirt on the ground, construction equipment, and a parked car, he was forced to change his direction slightly to move around the obstacles. Mr. Lopez was not running towards the SWAT officers. Moreover, there were several objects obstructing Mr. Lopez's view of the officers including a large road sign and several bright lights being pointed at him. The object was a small soft bag that any reasonable SWAT officer should recognize is not a firearm. Mr. Lopez did not raise or point the small bag containing a plastic water bottle at the Defendants; any movement of the object was caused by the natural movement of him jogging and navigating the terrain of the construction site.</p> <p>Ex E – Panov BWC at 1:18:07-18:17.</p>

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17			<p>Ex F - Delgado BWC at 54:24-54:33.</p> <p>Ex G – Weber BWC at 1:38:46-1:38:55</p> <p>Exhibit H – Still Frames from Defendant Panov's Body Worn Camera (hereinafter "Panov BWC Still Frames")</p> <p>Exhibit I – Still Frames from Defendant Delgado's Body Worn Camera (hereinafter "Delgado BWC Still Frames")</p> <p>Exhibit J – Still Frames from Defendant Weber's Body Worn Camera (hereinafter "Weber BWC Still Frames")</p> <p>Exhibit M – Photograph of Bag from DOJ Report.</p>
18 19 20 21 22		<p>Moving Party's Response</p> <p>Plaintiffs purportedly dispute this fact "as to the reason Defendant Officers fired," but this fact makes no statement as to the reason the Anaheim Officer Defendants used lethal force. Rather, this fact is solely in regards to how many shots were made by each Anaheim Officer Defendant during the incident. Therefore, this fact remains undisputed.</p>	
23 24 25 26	32.	<p>All shots were fired in about 2.2 seconds.</p> <p>Exh. 1, Composite Video at 02:42-02:46.</p>	Undisputed.
27 28	33.	Mr. Lopez then fell to the ground with his arms under his front torso.	Undisputed.

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Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence																									
	Exh. 1, Composite Video at 02:46-3:37; Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 9, Mullins Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 11; Exh. 21, Delgado Interview Transcript at 40:10-23; Exh. 22, Weber Interview Transcript at 54:1-19; Exh. 23, Panov Interview Transcript at 48:5-13; Exh. 24, Martinez Interview Transcript at p. 36; Exh. 26, Heitman Interview Transcript at 55:1-56:24; Exh. 27, Mullins Interview Transcript at p. 10.																										
34.	<p>Because the APD SWAT officers present could not see where the black object they perceived as a gun was now located, and because Mr. Lopez had just threatened them and appeared to be ignoring additional commands, Officer Reynoso deployed a 40 mm (non-lethal) foam-tipped round against Mr. Lopez's lower body: to determine his responsiveness and to redress the threat they still believed Mr. Lopez posed: as officers on the scene believed that there was a firearm under Lopez's body.</p> <p>Exh. 1, Composite Video at 02:46-04:29; Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 9, Mullins</p>	<p>Disputed in part as to Mr. Lopez threatening the officers.</p> <p>Mr. Lopez was moving in a parallel line to the officers through the construction area. When Mr. Lopez encountered piles of dirt on the ground, construction equipment, and a parked car, he was forced to change his direction slightly to move around the obstacles. Mr. Lopez was not running towards the SWAT officers. Moreover, there were several objects obstructing Mr. Lopez's view of the officers including a large road sign and several bright lights being pointed at him. The object was a small soft bag that any reasonable SWAT officer should recognize is not a</p>																									

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	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence																								
		Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at pp. 11, 17- 18; Exh. 21, Delgado Interview Transcript at 40:10-23; Exh. 22, Sgt. Weber Interview Transcript at 54:1-55:5; Exh. 23, Panov Interview Transcript at 48:5-13, 48:19-49:1; Exh. 24, Martinez Interview Transcript at p. 36; Exh. 26, Heitman Interview Transcript at 55:1-56:24, 59:1-6; Exh. 27, Mullins Interview Transcript at p. 10.	firearm. Mr. Lopez did not raise or point the small bag containing a plastic water bottle at the Defendants; any movement of the object was caused by the natural movement of him jogging and navigating the terrain of the construction site. Mr. Lopez clearly no longer posed a threat when the 40 mm was fired. Mr. Lopez had been shot thirty times and was visibly bleeding. Ex E – Panov BWC at 1:18:07- 18:17. Ex F - Delgado BWC at 54:24- 54:33. Ex G – Weber BWC at 1:38:46- 1:38:55 Exhibit H – Still Frames from Defendant Panov's Body Worn Camera (hereinafter "Panov BWC Still Frames") Exhibit I – Still Frames from Defendant Delgado's Body Worn Camera (hereinafter "Delgado BWC Still Frames") Exhibit J – Still Frames from Defendant Weber's Body Worn Camera (hereinafter "Weber BWC Still Frames") Exhibit M – Photograph of Bag from DOJ Report.																								

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3 4 5 6 7 8 9 10 11 12			Exhibit K – Autopsy Report for Decedent Brandon Lopez at 17-19 (hereinafter “Autopsy Report”)
13 14 15 16 17 18 19 20 21 22 23 24 25 26	35.	<p>However, Mr. Lopez did not move in response to the 40mm deployment.</p> <p>Exh. 1, Composite Video at 04:29-04:35; Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 9, Mullins Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 11; Exh. 21, Delgado Interview Transcript at 40:24-41:7; Exh. 22, Weber Interview Transcript at 54:1-55:5; Exh. 23, Panov Interview Transcript at 49:2-4; Exh. 26, Heitman Interview Transcript at 59:5-60:6; Exh. 27, Mullins Interview Transcript at p. 10.</p>	Undisputed.
27 28	36.	Seeing this, APD SWAT officers then approached, handcuffed, and searched Mr. Lopez.	Undisputed.

1 2	Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
3 4 5 6 7 8 9		Exh. 1 Exh. 5, Weber Interview; Exh. 2, Reynoso Interview; Exh. 6, Martinez Interview; Exh. 9, Mullins Interview; Exh. 19, Reynoso Interview Transcript at pp. 11, 17- 18; Exh. 22, Weber Interview Transcript at 55:6-56:3; Exh. 24, Martinez Interview Transcript at pp. 36-37; Exh. 27, Mullins Interview Transcript at p. 10.	
10 11 12 13 14	37.	At around 10:06 p.m., APD SWAT officers then determined that Mr. Lopez was deceased at the scene. Dkt. 71 at ¶29 ("DECEDENT was shot and killed.").	Undisputed.
15 16 17 18	38.	A firearm was not found in Mr. Lopez's possession. Exh. 14, Panov Interview; Exh. 23, Panov interview Transcript at 49:21-25.	Undisputed.
19 20 21 22 23 24 25 26 27 28	39.	After the shooting, the black object was determined to be a black pouch; however, at all times before shots were fired, the defendant officers had believed that object held by Mr. Lopez to be a gun that he was raising to fire at them. Exh. 15, Delgado Interview; Exh. 22, Delgado Interview Transcript at 52:18-53:4.	Disputed in part as to officers reasonably believing the object was a gun and that Mr. Lopez raised the object at them. The object was clearly a small soft bag that any reasonable SWAT officer should recognize is not a firearm. Mr. Lopez did not raise or point the small bag containing a plastic water bottle at the Defendants; any movement of the object was caused by the natural movement of him jogging and navigating the terrain of the

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Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
		<p>construction site.</p> <p>Ex E – Panov BWC at 1:18:07-18:17.</p> <p>Ex F - Delgado BWC at 54:24-54:33.</p> <p>Ex G – Weber BWC at 1:38:46-1:38:55</p> <p>Exhibit H – Still Frames from Defendant Panov's Body Worn Camera (hereinafter "Panov BWC Still Frames")</p> <p>Exhibit I – Still Frames from Defendant Delgado's Body Worn Camera (hereinafter "Delgado BWC Still Frames")</p> <p>Exhibit J – Still Frames from Defendant Weber's Body Worn Camera (hereinafter "Weber BWC Still Frames")</p> <p>Exhibit M – Photograph of Bag from DOJ Report.</p>
	<p>Moving Party's Response</p> <p>Plaintiffs' purported <i>partial</i> dispute is actually an improper legal conclusion. This fact appropriately states that, based on the evidence in this matter, it is undisputed that the Anaheim Officer Defendants believed that the object held by Mr. Lopez was a gun that he was raising to fire at them. Plaintiffs cited evidence does not dispute this fact.</p>	
40.	APD's policies clearly demonstrate that APD trains its officers to act in accordance to the appropriate legal standard, including, but not limited	Undisputed.

1 2	3 4 5 6 7	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24
Defs.' SUF No.	Fact & Supporting Evidence	Opposing Party's Response to Cited Fact and Supporting Evidence
	to, the factors to determine the reasonableness of force and when lethal force should be used. Exh. 30, Anaheim Police Department Policy 300: Use of Force.	
41.	Plaintiff Johanna Lopez admits that she did not see any aspect of the shooting incident; rather, she alleges that she heard gunshots and assumed that Mr. Lopez was being injured and/or killed at that time. Exh. 31, Deposition of Plaintiff Johanna Lopez, taken on May 8, 2024 at 38:17-39:5, 39:13-40:8, 40:19-24, 42:22-25, 47:15-25, 51:7- 17, 52:15-22, 58:23-59:9, 59:23- 62:22, 65:1-11, 66:2-8, 68:13- 69:18.	Disputed. Ms. Lopez testified that she heard both the flashbang explosions and the gunshots from where she stood, approximately one block from the incident. Ms. Lopez also testified that she fell to the ground screaming as soon as she heard the shots because she knew her son had been shot. Ms. Lopez remained on scene until approximately 2:00 am to receive confirmation of what she knew. Exhibit D – Deposition of Johanna Lopez at 39:1-5, 42:3-13, 43:1-7, 44:20-24, 46:22-47:4, 48:1-49:16, 50:22-6, 51:25-52:25, 55:6-56:5, 57:18-25, 58:6-10, 58:23-59:12, 59:23-62:24, 63:4-8, 64:12-17, 65:1-14, 66:9-67:14, 68:20-24, 74:20-22, 88:10-89:14, 90:4-18, 91:6-92:12, 93:14-20, 92:13-94:2, 95:16-96:11.
	Moving Party's Response Plaintiffs do not materially dispute this fact as stated. First, Plaintiffs' own cited evidence supports that Plaintiff Johanna Lopez did not see any aspect of the shooting incident and that she only heard gunshots. Second, Plaintiffs cited evidence also supports that Ms. Lopez testified that she	

1 2 3 4 5	<div>Defts.' SUF No.</div> <div>Fact & Supporting Evidence</div> <div>Opposing Party's Response to Cited Fact and Supporting Evidence</div>
	<p><i>assumed</i> that Mr. Lopez had been harmed during the incident, but did not actually know such harm occurred until well after the incident occurred. Thus, this fact remains undisputed.</p>

**DEFENDANTS' RESPONSE TO PLAINTIFFS' STATEMENT OF
ADDITIONAL MATERIAL FACTS**

9	<div>Opposing Party's Undisputed Material Facts and Supporting Evidence</div> <div>Moving Party's Response and Supporting Evidence</div>
10 11 12 13 14 15 16	<div> <p>1. On September 28, 2021, at approximately 5:15 p.m. dispatch received a 911 call accusing Brandon Lopez of stealing his then-girlfriend's car.</p> <p>Exhibit A – Anaheim Police Department Computer Aided Dispatch Report (hereinafter “Ex A – CAD Report”) at p. 6.</p> </div> <div> <p>Undisputed for purposes of summary judgment.</p> <p>However, Defendants note that Plaintiffs' cited evidence does not dispute this fact as stated. Moreover, this fact is duplicative of SUF Nos. 1-2, which are undisputed by Plaintiffs.</p> </div>
17 18 19 20 21	<div> <p>2. City of Anaheim police officers, as well as officers from other jurisdictions, pursued Brandon as he drove into the City of Santa Ana.</p> <p>Ex A – CAD report at p. 6-10</p> </div> <div> <p>Undisputed for purposes of summary judgment.</p> <p>However, Defendants note that this fact is duplicative of SUF Nos. 5-6, which are undisputed by Plaintiffs.</p> </div>
22 23 24 25	<div> <p>3. Around the intersection of Santa Ana Blvd. and Bristol St., in Santa Ana, California, Brandon's vehicle became stuck in a railway construction zone.</p> <p>Ex A – CAD Report at p. 10</p> </div> <div> <p>Undisputed for purposes of summary judgment.</p> <p>However, Defendants note that this fact is duplicative of SUF No. 9, which is undisputed by Plaintiffs.</p> </div>
26 27 28	<div> <p>4. An armored vehicle was quickly called to the scene and Brandon's vehicle was surrounded by police</p> </div> <div> <p>Undisputed for purposes of summary judgment.</p> <p><i>See</i> Defts.' Evidentiary Objections</p> </div>

1	vehicles.	(filed concurrently).
2	Ex A – CAD report at p. 11	
3	Exhibit B – Photographs of Scene from	
4	Department of Justice Report and	
5	Recommendations (hereinafter “Ex B –	
6	DOJ Scene Photos”)	
7	5. Though officers gave commands for	Undisputed for purposes of summary
8	Brandon to exit the vehicle, he	judgment.
9	remained inside.	However, Defendants note that this fact
10	Ex A – CAD report at p. 11	is duplicative of SUF Nos. 11-13, which
11		are undisputed by Plaintiffs.
12	6. Minutes after Brandon’s vehicle	Undisputed for purposes of summary
13	became disabled, one Santa Ana police	judgment.
14	officer aired over the radio that he	However, Defendants note that this fact
15	believed he observed a gun in	is duplicative of SUF No. 14, which
16	Brandon’s right hand.	Plaintiffs purportedly partially disputed,
17	Ex A – CAD report at p. 13	but did <u>not</u> materially dispute based on
18		their cited evidence. This fact further
19		demonstrates that Plaintiffs do not
20		actually dispute SUF No. 14.
21	7. However, this was a mistake as it is	Undisputed for purposes of summary
22	undisputed that Brandon was not armed	judgment that Mr. Lopez was not armed
23	with any weapons and did not have any	with any weapons and did not have any
24	firearms in his vehicle.	firearms in his vehicle.
25	Exhibit C – Anaheim Police	<i>See Defts.’ Evidentiary Objections.</i>
26	Department Report re Evidence	
27	Collection (hereinafter “Ex C –	
28	Evidence Report”).	
	8. There were no additional reports	Undisputed for purposes of summary
	from any officer that they believed they	judgment.
	observed Brandon with a firearm or any	
	other weapons at any other point during	
	the four hours that he was in the	
	vehicle.	

Ex A – CAD report, generally.	
<p>9. No officer saw Brandon point the alleged firearm at anyone or make any movements that made them believe Brandon intended to harm anyone. Moreover, Brandon was never observed making any aggressive or threatening movements during the incident.</p> <p>Ex A – CAD report, generally.</p>	<p>Plaintiffs’ cited evidence does not support this purported additional material fact as stated. Rather, as discussed and supported by extensive evidence in Defendants’ Undisputed Material Facts, Mr. Lopez consistently made movements that the officers deemed to be threatening and pre-assaultive and that it was believed Mr. Lopez intended to harm others due to his actions during the incident and other information received by the officers. <i>See</i> SUF Nos. 3, 5-8, 11-19, 21-23.</p> <p><i>See</i> Defts.’ Evidentiary Objections.</p>
<p>10. Shortly after Brandon’s vehicle became stuck, Brandon’s mother, Johanna Lopez, as well as several other family members, arrived on scene and congregated approximately one block from Brandon’s car. Ms. Lopez stood just on the other side of the police perimeter, as close as she could legally be to her son, and could see the intersection and at least three police cars and an armored vehicle.</p> <p>Exhibit D – Deposition of Plaintiff Johanna Lopez at 39:1-5, 42:3-13, 44:20-24, 46:22-47:4, 48:1-49:16, 50:22-6, 55:6-56:5 (hereinafter “Ex D – Johanna Lopez Depo”)</p>	<p>Undisputed for purposes of summary judgment that Ms. Lopez and other family members were approximately one block away from where Mr. Lopez was during the incident and that she could see at least three police cars and the top of an armored vehicle.</p> <p>However, as to the remainder of this fact, Plaintiffs’ cited evidence does not support such statements, <i>i.e.</i> when Ms. Lopez arrived at the scene and that Ms. Lopez was as close as she could legally be to her son. Further, Ms. Lopez testified that her vision was blocked at various times. Dkt. 130-8, Pltfs.’ Exh. D at 50:22-51:6.</p> <p><i>See</i> Defts.’ Evidentiary Objections.</p>
11. Ms. Lopez knew that her son was in the intersection and knew that he was surrounded by officers.	As an initial matter, Plaintiffs did not include page 40 of Exhibit D, so it cannot be considered as evidence in this

1 2 3 4 5 6 7 8 9 10 11 12 13	Ex D – Johanna Lopez Depo at 39:24-40:18, 44:20-24, 46:22-47:4, 48:1-49:16, 50:22-6, 66:9-67:14.	<p>matter.</p> <p>Undisputed for purposes of summary judgment that Ms. Lopez was told by others that Mr. Lopez was in a vehicle in the intersection at the time of the incident and that there were officers in the area.</p> <p>Otherwise, Plaintiffs’ cited evidence does not support this fact. Moreover, Ms. Lopez stated that, though she was told by an officer that Mr. Lopez was “in the car,” she was not given any context as to what car Mr. Lopez was in. Dkt. 130-8, Pltfs.’ Exh. D at 66:22-67:20.</p> <p><i>See Defts.’ Evidentiary Objections.</i></p>
14 15 16 17 18 19 20 21 22	<p>12. Ms. Lopez remained on scene for the duration of the Incident, pleading with the officers to allow her to speak to her son.</p> <p>Ex D – Johanna Lopez Depo. at 43:1-7, 51:25-52:25</p>	<p>Undisputed for purposes of summary judgment that Ms. Lopez remained at her location a clock away during the incident.</p> <p>However, Plaintiffs’ cited evidence does not support that Ms. Lopez “plead[ed] with the officers to allow her to speak to her son.” Thus, such statement should not be considered by this Court.</p> <p><i>See Defts.’ Evidentiary Objections.</i></p>
23 24 25 26 27 28	<p>13. Several hours later, the Anaheim SWAT team, including the Defendant Officers, arrived on scene.</p> <p>Ex A – CAD Log at p. 20</p> <p>Exhibit E – Defendant Panov’s Body Worn Camera Footage at 0:00:00-0:02:00 (hereinafter “Ex E – Panov</p>	<p>Undisputed for purposes of summary judgment.</p> <p>However, Defendants note that this fact is duplicative of SUF No. 20, which is undisputed by Plaintiffs.</p>

1	BWC”)	
2	Exhibit F – Defendant Delgado’s Body	
3	Worn Camera Footage at 00:00-02:00	
4	(hereinafter “Ex F – Delgado BWC”)	
5	Exhibit G – Defendant Weber’s Body	
6	Worn Camera Footage at 00:00-02:00	
7	(hereinafter “Ex G – Weber BWC”)	
8	14. At this time at least two additional	Undisputed for purposes of summary
9	armored vehicles were brought in to	judgment.
10	further surround the vehicle.	<i>See Defts.’ Evidentiary Objections.</i>
11	Ex B – DOJ Scene Photos	
12	Ex E – Panov BWC at 14:26-15:10	
13	15. Upon arriving on scene, the	Undisputed for purposes of summary
14	Defendant Officers and the rest of the	judgment.
15	SWAT team met to discuss their tactics.	.
16	Ex E – Panov BWC at 22:15-24:20,	
17	27:30-28:00	
18	16. The Defendant officers knew that	Undisputed for purposes of summary
19	when they forced Brandon out of the	judgment.
20	car that his only potential avenue of	<i>See Defts.’ Evidentiary Objections.</i>
21	escape was through the police	
22	perimeter.	
23	Ex E – Panov BWC at 22:15-24:20,	
24	27:30-28:00	
25	17. The Defendant officers also	Undisputed for purposes of summary
26	discussed the terrain of the construction	judgment.
27	zone and knew that it would force	<i>See Defts.’ Evidentiary Objections.</i>
28	Brandon to zigzag to avoid the	
	obstacles.	
	Ex E – Panov BWC at 22:15-24:20,	
	27:30-28:00, 33:50-34:40	

1	18. The Defendants knew that these	Undisputed for purposes of summary
2	could be potential problems regardless	judgment.
3	of whether Brandon was armed, thus	<i>See Defts.’ Evidentiary Objections.</i>
4	the plan was for less lethal to begin	
5	firing to subdue Brandon before he	
6	reached the perimeter to avoid the use	
7	of lethal force.	
8	Ex E – Panov BWC at 22:15-24:20,	
9	27:30-28:00, 33:50-34:40	
10	19. Law enforcement also planned to	Undisputed for purposes of summary
11	deploy the police service dog off lead if	judgment.
12	he approached the perimeter to ensure	<i>See Defts.’ Evidentiary Objections.</i>
13	the officers could safely take Brandon	
14	into custody.	
15	Ex E – Panov BWC at 22:15-24:20,	
16	27:30-28:00, 33:50-34:40	
17	20. Lethal force was designated as	Undisputed for purposes of summary
18	cover.	judgment.
19	Ex E – Panov BWC at 22:15-24:20,	<i>See Defts.’ Evidentiary Objections.</i>
20	27:30-28:00, 33:50-34:40	
21	21. Ms. Lopez was informed by an	Undisputed for purposes of summary
22	officer that law enforcement would be	judgment that Ms. Lopez was informed
23	deploying a flashbang into Brandon’s	by an officer that law enforcement
24	vehicle to attempt to get him to exit the	would be deploying a flashbang to try
25	car. Ms. Lopez immediately started	to get Mr. Lopez out of the car and that
26	crying.	she testified that she believed she
27	Ex D – Johanna Lopez Depo at 57:18-	started crying in response to this
28	25, 58:6-10, 58:23-59:12	information.
	22. Prior to the flashbang being	Undisputed for purposes of summary
	deployed, Brandon had been sitting	judgment that Mr. Lopez’s vehicle was
	calmly had not engaged in any	surrounded by armed officers.
	threatening or assaultive conduct, and	Otherwise, Plaintiffs’ cited evidence
	was completely surrounded by armed	does not support the rest of this fact as
	officers, including the City of Anaheim	stated. As discussed above and

1	SWAT Team, and armored vehicles.	supported by extensive evidence, Mr.
2	Ex A – CAD Report	Lopez had engaged in threatening
3	Ex E – Panov BWC at 0:00:00-1:20:00	conduct during the incident. SUF Nos.
4	Ex F – Delgado BWC at 00:00-55:00	3, 5-8, 11-19, 21-23.
5	Ex G – Weber BWC at 0:00:00-1:40:00	
6		
7	23. Each of the Defendant Officers was	Undisputed for purposes of summary
8	armed with deadly force, some with	judgment.
9	handguns, others with rifles.	
10	Ex E – Panov BWC at 1:15:00-1:18:00	
11	Ex F – Delgado BWC at 54:22-54:35	
12	Ex G – Weber BWC at 1:38:46-1:38:55	
13	24. In addition to lethal cover, the less	Undisputed for purposes of summary
14	lethal 40 mm launcher, police service	judgment that APD Officer Ricky
15	dog, and a ballistic shield were staged	Reynoso was armed with a less-lethal
16	with the Defendant Officer, hidden	40 mm weapon and APD K-9 Officer
17	behind one of the armored vehicles.	Brandon Mullins was present at the
18	Ex A – CAD Report	incident with his K-9.
19	Ex E – Panov BWC at 24:30-25:15,	Otherwise, the remainder of this fact is
20	1:15:00	not supported by Plaintiffs’ cited
21	Ex F – Delgado BWC at 02:30-03:00	evidence and should not be considered
		by this Court.
		<i>See Defts.’ Evidentiary Objections.</i>
22	25. Shortly after Ms. Lopez was	Undisputed for purposes of summary
23	informed of the flashbang, at	judgment.
24	approximately 10:00 p.m., law	
25	enforcement deployed the flashbang	
26	and smoke bomb into Brandon’s	
27	vehicle with the intent to force him to	
28	exit.	
	Ex D – Johanna Lopez Deposition at	
	58:6-10, 58:23-59:12, 59:23-7	

1	Ex E – Panov BWC at 1:18:00-1:18:05	
2	26. The flashbang set off two audible	Undisputed for purposes of summary judgment.
3	explosions.	
4	Ex D – Johanna Lopez Deposition at	
5	60:6-24	
6	Ex E – Panov BWC at 1:18:00-1:18:05	
7	Ex F – Delgado BWC at 54:22-54:27	This is not an appropriate additional material fact, but an improper legal conclusion. Moreover, Plaintiffs’ cited evidence does not support this statement. This “fact” should not be considered by this Court.
8	Ex G – Weber BWC at 1:35:00-1:38:00	
9	27. There were no exigent	
10	circumstances or other legitimate law	
11	enforcement objectives that required the	
12	removal of Brandon at that time.	<i>See Defts.’ Evidentiary Objections.</i>
13	Ex A – CAD Report, generally	
14	Ex E – Panov BWC at 0:00:00-1:18:00	
15	Ex F – Delgado BWC at 00:00-55:00	
16	Ex G – Weber BWC at 0:00:00-1:40:00	
17	28. In fact, the Defendant Officers had	Plaintiffs’ cited evidence does not support this purported additional material fact as stated. Rather, as discussed and supported by extensive evidence in Defendants’ Undisputed Material Facts, Mr. Lopez consistently made movements that the officers deemed to be threatening and pre-assaultive and that it was believed Mr. Lopez intended to harm others due to his actions during the incident and other information received by the officers. <i>See</i> SUF Nos. 3, 5-8, 11-19, 21-23. Moreover, Mr. Lopez had been inside the car for hours, refusing to respond to commands, so the decision to use a flashbang to remove Mr. Lopez from
18	been hiding behind the armored vehicle	
19	for almost an hour prior to shots being	
20	fired and no assaultive or threatening	
21	behavior by Brandon was reported or	
22	observed. By forcing Brandon out of	
23	the car, the Defendants forced an	
24	unnecessary confrontation and escalated	
25	the situation.	
26	Ex A – CAD Report, generally	
27	Ex E – Panov BWC at 0:00:00-1:18:00	
28	Ex F – Delgado BWC at 00:00-55:00	
	Ex G – Weber BWC at 0:00:00-1:40:00	

1		the car was necessary and did not escalate the situation.
2		
3		<i>See Defts.’ Evidentiary Objections.</i>
4	29. Moreover, it was clear that	Undisputed for purposes of summary
5	Brandon was in crisis as he was seen	judgment that Mr. Lopez was seen
6	crying in the vehicle.	crying in the vehicle.
7	Ex A – CAD Report at p.21	Otherwise, the remainder of this
8		purported “fact” is unsupported by
9		Plaintiffs’ cited evidence and should not
10		be considered by this Court.
11		<i>See Defts.’ Evidentiary Objections.</i>
12	30. Brandon exited his vehicle holding	Undisputed for purposes of summary
13	only a small bag containing a plastic	judgment that Mr. Lopez exited the
14	water bottle held down at his side.	vehicle holding a black pouch.
15	Ex C – Evidence Report	Of note, this fact is duplicative of SUF
16	Ex E – Panov BWC at 1:18:07-18:11	Nos. 28 and 39, which Plaintiffs
17	Ex F – Delgado BWC at 54:28-54:35	purportedly (though did not materially)
18	Ex G – Weber BWC at 1:38:46-1:38:55	dispute.
19	Exhibit H – Still Frames from	<i>See Defts.’ Evidentiary Objections.</i>
20	Defendant Panov’s Body Worn Camera	
21	(hereinafter “Panov BWC Still	
22	Frames”)	
23	Exhibit I – Still Frames from Defendant	
24	Delgado’s Body Worn Camera	
25	(hereinafter “Delgado BWC Still	
26	Frames”)	
27	Exhibit J – Still Frames from Defendant	
28	Weber’s Body Worn Camera	
	(hereinafter “Weber BWC Still	
	Frames”)	

1	31. As Brandon exited, he began to jog	Undisputed for purposes of summary
2	in a line parallel to where the Defendant	judgment that Mr. Lopez ran towards
3	Officers were standing.	the Defendant Officers during the
4	Ex E – Panov BWC at 1:18:07-18:11.	incident.
5	Ex F – Delgado BWC at 54:28-54:35.	Of note, this fact is duplicative of SUF
6	Ex G – Weber BWC at 1:38:46-	No. 28, which Plaintiffs purportedly
7	1:38:55	(though did not materially) dispute.
8	Exhibit H – Still Frames from	<i>See Defts.’ Evidentiary Objections.</i>
9	Defendant Panov’s Body Worn Camera	
10	(hereinafter “Panov BWC Still	
11	Frames”)	
12	Exhibit I – Still Frames from Defendant	
13	Delgado’s Body Worn Camera	
14	(hereinafter “Delgado BWC Still	
15	Frames”)	
16	Exhibit J – Still Frames from Defendant	
17	Weber’s Body Worn Camera	
18	(hereinafter “Weber BWC Still	
19	Frames”)	
20	32. The Defendant Officers were still	Plaintiffs’ cited evidence does not
21	hidden behind an armored vehicle and	support this material fact as stated and,
22	there were several bright lights pointing	thus, this Court should not consider it in
23	directly at Brandon, obfuscating their	evaluating Defendants’ Motion for
24	location.	Summary Judgment.
25	Ex E – Panov BWC at 1:18:07-18:11.	<i>See Defts.’ Evidentiary Objections.</i>
26	Ex F – Delgado BWC at 54:28-54:35.	
27	Ex G – Weber BWC at 1:38:46-	
28	1:38:55	
	Exhibit H – Still Frames from	
	Defendant Panov’s Body Worn Camera	
	(hereinafter “Panov BWC Still	
	Frames”)	

1	Exhibit I – Still Frames from Defendant	
2	Delgado’s Body Worn Camera	
3	(hereinafter “Delgado BWC Still	
4	Frames”)	
5	Exhibit J – Still Frames from Defendant	
6	Weber’s Body Worn Camera	
7	(hereinafter “Weber BWC Still	
8	Frames”)	
9	33. As Brandon exited the car, several	Undisputed for purposes of summary
10	officers began simultaneously yelling,	judgment.
11	including “hands up” and “go, go, go”.	Of note, this fact is duplicative of SUF
12	Ex E – Panov BWC at 1:18:07-18:11	No. 27, which Plaintiffs purportedly,
13	Ex F – Delgado BWC at 54:28-54:35	but did not actually, dispute in part.
14	Ex G – Weber BWC at 1:38:46-1:38:55	
15	34. As Brandon moved forward, he	Plaintiffs’ cited evidence does not
16	was not looking in the direction of	support this material fact as stated and,
17	Defendant Officers.	thus, this Court should not consider it in
18	Ex E – Panov BWC at 1:18:07-18:11.	evaluating Defendants’ Motion for
19	Ex F – Delgado BWC at 54:28-54:35.	Summary Judgment.
20	Ex G – Weber BWC at 1:38:46-	See Defts.’ Evidentiary Objections.
21	1:38:55	
22	Exhibit H – Still Frames from	
23	Defendant Panov’s Body Worn Camera	
24	(hereinafter “Panov BWC Still	
25	Frames”)	
26	Exhibit I – Still Frames from Defendant	
27	Delgado’s Body Worn Camera	
28	(hereinafter “Delgado BWC Still	
	Frames”)	
	Exhibit J – Still Frames from Defendant	
	Weber’s Body Worn Camera	
	(hereinafter “Weber BWC Still	
	Frames”)	

1	Frames”)	
2	35. When Brandon did look towards	Plaintiffs’ cited evidence does not support this material fact as stated and, thus, this Court should not consider it in evaluating Defendants’ Motion for Summary Judgment. <i>See Defts.’ Evidentiary Objections.</i>
3	the lights, his hands were down by his	
4	side, moving only with the natural	
5	movement of his body.	
6	Ex E – Panov BWC at 1:18:07-18:11.	
7	Ex F – Delgado BWC at 54:28-54:35.	
8	Ex G – Weber BWC at 1:38:46-	
9	1:38:55	
10	Exhibit H – Still Frames from	
11	Defendant Panov’s Body Worn Camera	
12	(hereinafter “Panov BWC Still	
13	Frames”)	
14	Exhibit I – Still Frames from Defendant	
15	Delgado’s Body Worn Camera	
16	(hereinafter “Delgado BWC Still	
17	Frames”)	
18	Exhibit J – Still Frames from Defendant	
19	Weber’s Body Worn Camera	
20	(hereinafter “Weber BWC Still	
21	Frames”)	
22	36. As Brandon crossed the tracks on	Undisputed for purposes of summary judgment that Mr. Lopez changed directions after exiting the vehicle, causing him to be running towards the Anaheim Defendant Officers. Of note, this fact is duplicative to SUF No. 28, which Plaintiffs purportedly (but did not materially) dispute. <i>See Defts.’ Evidentiary Objections.</i>
23	the ground, his path of travel was	
24	blocked by a car and construction	
25	equipment, thus he changed direction	
26	slightly to attempt to run past the car	
27	and toward the open street.	
28	Ex E – Panov BWC at 1:18:07-18:11	
	Ex F – Delgado BWC at 54:28-54:35.	
	Ex G – Weber BWC at 1:38:46-	
	1:38:55	

1 2 3 4 5 6 7 8	<p>37. He was not running at the officers, lunging, nor making aggressive movements towards anyone. Brandon never raised, swung, or pointed the bag at anyone.</p> <p>Ex E – Panov BWC at 1:18:07-18:11.</p> <p>Ex F – Delgado BWC at 54:28-54:35.</p> <p>Ex G – Weber BWC at 1:38:46-1:38:55.</p>	<p>Plaintiffs’ cited evidence does not support this material fact as stated and, thus, this Court should not consider it in evaluating Defendants’ Motion for Summary Judgment.</p> <p><i>See Defts.’ Evidentiary Objections.</i></p>
9 10 11 12 13 14 15 16	<p>38. Despite Brandon not presenting an immediate threat that would justify the use of deadly force, the defendants failed to follow their plan to use less lethal force first and did not utilize any of the options available to them.</p> <p>Ex E – Panov BWC at 1:18:07-18:12.</p> <p>Ex F – Delgado BWC at 54:28-54:35.</p>	<p>Undisputed for purposes of summary judgment that the Anaheim Officer Defendants did not use less lethal force during the incident.</p> <p>Otherwise, the rest of this purported “fact” is an improper legal conclusion and not supported by Plaintiffs’ cited evidence and, thus, should not be considered by this Court.</p> <p><i>See Defts.’ Evidentiary Objections.</i></p>
17 18 19 20 21 22 23 24	<p>39. Instead, within four seconds of Brandon exiting his vehicle, all four of the Defendant Officer’s [sic] fired their guns at Brandon multiple times, spraying Brandon in a hail of gunfire.</p> <p>Ex E – Panov BWC at 1:18:07-18:14</p> <p>Ex F – Delgado BWC at 54:28-54:35</p> <p>Ex G – Weber BWC at 1:38:46-1:38:55</p>	<p>Undisputed for purposes of summary judgment that, shortly after Mr. Lopez exited his vehicle, the Anaheim Officer Defendants used lethal force on Mr. Lopez, firing multiple times.</p> <p>Of note, this fact is duplicative of SUF Nos. 31 and 32, which Plaintiffs do not materially dispute.</p>
25 26 27 28	<p>40. Brandon immediately started falling when the first shot struck him and hit the ground unresponsive, still, and bleeding profusely.</p> <p>Ex E – Panov BWC at 1:18:07-18:14.</p>	<p>Undisputed for purposes of summary judgment that, after the Anaheim Officer Defendants used lethal force, Mr. Lopez fell to the ground.</p> <p>Otherwise, Plaintiffs’ cited evidence does not support the rest of the fact as</p>

1	Ex F – Delgado BWC at 54:28-54:35.	stated and should not be considered by
2	Ex G – Weber BWC at 1:38:46-	this Court.
3	1:38:55.	<i>See Defts.’ Evidentiary Objections.</i>
4	41. Instead of providing medical care	Undisputed for purposes of summary
5	for Brandon as laid bleeding out on the	judgment that a less lethal 40 mm round
6	cold pavement, officers fired a less	was deployed and Mr. Lopez was
7	lethal round at him approximately two	unresponsive.
8	minutes later. Brandon did not move.	Of note, this fact is duplicative of SUF
9	Ex E – Panov BWC at 1:18:14-1:20:14	Nos. 34 and 25, which are not
10	Ex F – Delgado BWC at 54:35-56:25.	materially disputed by Plaintiffs.
11	Ex G – Weber BWC at 1:38:46-	
12	1:40:55.	
13	42. After searching Brandon, medical	Undisputed for purposes of summary
14	attention was summoned, and he was	judgment.
15	pronounced dead on scene at	
16	approximately 10:11 p.m.	
17	Exhibit K – Autopsy Report for	
18	Decedent Brandon Lopez (hereinafter	
19	“Autopsy Report”)	
20	43. Brandon, who was unarmed during	Undisputed for purposes of summary
21	the entire incident, was shot in the back	judgment.
22	four times, the right side eight times,	<i>See Defts.’ Evidentiary Objections.</i>
23	the chest six times, and the right arm,	
24	hand, and shoulder area twelve times,	
25	for a total of at least 30 gunshot	
26	wounds.	
27	Ex C – Evidence Report.	
28	Exhibit K – Autopsy Report 17-19	
	44. Ms. Lopez was still standing	Undisputed for purposes of summary
	approximately one block away when	judgment that Ms. Lopez heard what
	her son was shot. Ms. Lopez heard both	she assumed to be flashbang explosions
	the flashbang explosions and the	and gunshots from where she stood one
	gunshots from where she stood.	block away during the incident.

1	Ex D – Johanna Lopez Depo at 59:23-62:24	See Defts.’ Evidentiary Objections.
2		
3	45. Ms. Lopez knew the first sounds were flashbangs because she had been told that they would be deployed shortly before and they sounded like explosions or fireworks.	Undisputed for purposes of summary judgment.
4		
5		
6		
7	Ex D – Johanna Lopez Depo at 58:23-62:24	
8		
9	46. Ms. Lopez thereafter heard the gunshots from the intersection.	Undisputed for purposes of summary judgment that Ms. Lopez heard what she assumed to be gunshots during the incident.
10	Ex D – Johanna Lopez Depo at 61:16-62:8	
11		See Defts.’ Evidentiary Objections.
12		
13	47. Ms. Lopez immediately “knew what gunshots meant” and knew that her son had been shot by Defendant Officers.	Plaintiffs’ cited evidence does not support this purported “fact” as stated and should not be considered by this Court. Rather, Ms. Lopez testified that she <i>assumed</i> that Mr. Lopez had been harmed during the incident, but did not actually know such harm occurred until well after the incident occurred.
14		Defts.’ Exh. 31, Deposition of Plaintiff Johanna Lopez, taken on May 8, 2024 at 38:17-39:5, 39:13-40:8, 40:19-24, 42:22-25, 47:15-25, 51:7-17, 52:15-22, 58:23-59:9, 59:23-62:22, 65:1-11, 66:2-8, 68:13-69:18.
15		
16	Ex D – Johanna Lopez Depo at 68:20-24	
17		
18		
19		
20		
21		
22		
23	48. Ms. Lopez immediately fell to the ground and began screaming.	Undisputed for purposes of summary judgment that Ms. Lopez fell to the floor and screamed after she heard noises she assumed to be a flash bang and gunshots.
24		
25	Ex D – Johanna Lopez Depo at 63:4-8, 64:12-17	
26		
27	49. Ms. Lopez remained on scene until approximately 2:00 a.m. when law	Undisputed for purposes of summary
28		

1 enforcement confirmed that Brandon 2 had died as a result of the gunfire. 3 Ex D – Johanna Lopez Depo at 65:1-14	judgment.
4 50. As a result of the Incident, Ms. 5 Lopez was diagnosed with Post 6 Traumatic Stress Disorder and 7 continues to experience vivid 8 flashbacks of the sounds of gunshots. 9 Mr. Lopez has sought treatment for her 10 emotional damages, including therapy 11 and medication. 12 Ex D – Johanna Lopez Depo at 88:10- 13 89:14, 90:4-18, 91:6-92:12, 93:14-20	Undisputed for purposes of summary judgment.
14 51. Ms. Lopez also continues to 15 experience depression and anxiety 16 symptoms. 17 Ex D – Johanna Lopez Depo at 92:13- 18 94:2	Undisputed for purposes of summary judgment.
19 52. In addition, Plaintiffs lost their only 20 son and will forever be deprived on his 21 love, companionship, support, and 22 guidance. 23 Ex K – Autopsy Report 24 Ex D – Johanna Lopez Depo at 74:20- 25 22, 88:10-18	Undisputed for purposes of summary judgment.

DATED: July 29, 2024

LEWIS BRISBOIS BISGAARD & SMITH LLP
By: /s/ Abigail J.R. McLaughlin
DANA A. FOX & TONY M. SAIN
TORI L. N. BAKKEN
ABIGAIL J. R. McLAUGHLIN
Attorneys for Defendants,
CITY OF ANAHEIM, et al.